

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 24

Filed by: Trial Section Motions Panel
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

SATOSHI TAKECHI
Junior Party
(U.S. Application 08/800,227),

v.

MITSUHIITO SUWA, TORU KAJITA,
SHIN-ICHIRO IWANAGA, TOSHIYUKI OTA
Senior Party,
(U.S. Application 08/797,620).

FAXED

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PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Patent Interference No. 104,786

Before: SPIEGEL, TIERNEY and NAGUMO, Administrative Patent Judges.
TIERNEY, Administrative Patent Judge.

FINAL JUDGMENT

This interference involves a single count, Count 1. All of Takechi's pending claims correspond to Count 1, i.e., Takechi claims 1, 3-6, 8-11 and 14. (Notice Declaring Interference, Paper No. 1, p. 5 and Takechi's Revised Proposed Amendment dated October 23, 2002 adding claim 14).

Junior Party Takechi has conceded priority to Senior Party Suwa with respect to all pending Takechi's claims. (Takechi Concession of Priority, Paper No. 23). While Takechi does not specifically state that it concedes priority as to Count 1, Takechi has abandoned all of Takechi's corresponding claims, i.e., Takechi claims 1, 3-6 and 8-11.¹ As Takechi has conceded priority as to all of Takechi's corresponding claims, Takechi has effectively abandoned the contest as to Count 1. Upon consideration of the record, it is:

ORDERED that judgment on priority as to Count 1 (Notice Declaring Interference, Paper No. 1, p. 5), the sole count in the interference, is awarded *against* Junior Party Takechi.

FURTHER ORDERED that priority of invention as to the subject matter of Takechi claims 1, 3-6, 8-11 and 14 is awarded *against* Junior Party Takechi.

FURTHER ORDERED that Junior Party Takechi is not entitled to a patent containing claims 1, 3-6, 8-11 and 14 of Takechi, U.S. Application No. 08/800,227.

FURTHER ORDERED that a copy of this final decision shall be placed and given a paper number in the file of Takechi, U.S. Application No. 08/800,227 and Suwa et al., U.S. Application No. 08/797,620.

¹At the time the interference was declared, all of Takechi's pending claims, i.e., claims 1, 3-6 and 8-11, corresponded to Count 1. (Notice Declaring Interference, Paper No. 1, p. 5). Takechi claim 14 was added in a Revised Proposed Amendment filed October 24, 2002. This amendment was entered per the Final Judgment (Paper No. 29) in Interference No. 104,785. Whether or not Takechi claim 14 corresponds to Count 1 of the present interference is moot in light of Takechi's concession of priority.

35 U.S.C. § 135(c) and 37 CFR § 1.661.

CAROL A. SPIEGEL
Administrative Patent Judge

MICHAEL P. TIERNEY
Administrative Patent Judge

MARK NAGUMO
Administrative Patent Judge

BOARD OF PATENT
APPEALS
AND
INTERFERENCES

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